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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,422	12/08/2003	Alexandra Naughton	279.B41US1	3939
21186	7590	07/19/2006	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.			MANUEL, GEORGE C	
P.O. BOX 2938			ART UNIT	
MINNEAPOLIS, MN 55402			PAPER NUMBER	
			3762	

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/731,422	Applicant(s) NAUGHTON ET AL.	
	Examiner George Manuel	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 3, 8, 11, 13-15 and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Thompson '587.

Thompson discloses a first module comprising multi-mode programmer 5 and a plurality of second modules comprising medical devices 8A-8D. Programmer 5 clearly functions in an interface capacity and is capable of listing families of cardiac rhythm management system devices since the programmer can configure itself for communication with medical device 8 based on the telemetry signal 12 received from medical device 8. The programmer dynamically selects an appropriate communication mode see paragraph 0035. This is the equivalent of the interface including a first module listing a plurality of CRM system device families and a user can configure the programmer 5 to communicate with a CRM device by selecting the appropriate CRM device family. Medical devices 8A-8D form a plurality of second modules, each

associated with one of the cardiac rhythm management system device families listed by the first module. The different telemetry signals 12 may be modulated differently and different coding schemes may be associated with different signals 12 thereby providing a plurality of high-level parameters associated with each of the cardiac rhythm management device families listed by the first module.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4-7, 9, 10, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson '587.

Thompson teaches the programmer 5 may have a display screen or a blinking light. Also, the medical device 8 may be an implantable defibrillator.

Regarding claims 2, 5, 9, 12 and 16, one of ordinary skill in the art would have found it obvious to provide a defibrillator waveform on a display for programmer 5 and indicate with a blinking light that the defibrillator needs replacement because defibrillators use large amounts of energy and frequent use can unexpectedly hasten

the need for replacement, and EKG waveforms are well known to be used in combination with defibrillators to indicate efficacy.

Thompson further teaches the interrogator will downlink a command to the implanted device 8 to cause an uplink telemetry transmission that would include the manufacturer, device model number, serial number, device status, diagnostic data, programmable parameters and contact information, if present.

Regarding claims 6, 7, 9 and 10, one of ordinary skill in the art would have found it obvious to list each cardiac rhythm management system device in a given cardiac rhythm management system device family by at least model name and model number or list each cardiac rhythm management device model name and model number for each listed cardiac rhythm management device family because in addition to the above, Thompson teaches using a lookup table to map signatures to communication modes by mapping a number associated with an associated communication mode. See [0065].

Response to Arguments

Applicant's arguments filed 5/16/06 have been fully considered but they are not persuasive. A user interface provided at startup is an intended use function that the device of Thompson is capable of performing.

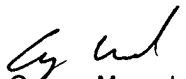
In response to applicant's argument that a user interface provided at startup of a programmer for a cardiac rhythm management system device is lacking in Thompson, a recitation of the intended use of the claimed invention must result in a structural

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difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.


George Manuel
Primary Examiner
Art Unit: 3762

7/6/06